IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 3849 of 2007(G)

PETITIONER:

P.K.KURIAN, CHEMPIKALAM, PATTOM,
THIRUVANANTHAPURAM-695 004.

BY ADV. SRI.H.RAMANAN
SRI.ALEX N.MATHEW (KOLLAM)
SRI.JAMES JOSE

RESPONDENTS:
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1. STATE OF KERALA, REP. BY SECRETARY,
(PUBLIC WORKS), SECRETARIAT, THIRUVANANTHAPURAM.

2. TRIVANDRUM DEVELOPMENT AUTHORITY,
REP. BY ITS SECRETARY, JAYAMANSION,
VAZHUTHACAUD, THIRUVANANTHAPURAM.

3. DEPUTY COLLECTOR (LA),
COLLECTORATE, THIRUVANANTHAPURAM.

*** ADDL. R4 IS IMPLEADED.**

4. HIGH LEVEL COMMITTEE, (ROAD DEVELOPMENT)
C/O.TRIDA, JAYAMANSION, VAZHUTHACAUD,
THIRUVANANTHAPURAM.
*** IS IMPLEADED AS ADDL.R4TH RESPONDENT AS PER ORDER DT.14.3.07**
IN IA. NO.3518/2007.

BY ADV. SRI.K.A.JALEEL, SC., TRIDA
BY GOVERNMENT PLEADER SRI.T.M.SUNIL - R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/05/2007, ALONG WITH WP(C) NO.15379/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.3849/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PETITIONER'S REPRESENTATION TO THE 2ND RESPONDENT DT.21.8.2003.

EXT.P2:- COPY OF THE 2ND RESPONDENT'S NOTICE OF HEARING DT.14.10.2004

EXT.P3:- COPY OF THE PETITIONERS REPRESENTATION TO 2ND RESPONDENT DT.18.10.2004

EXT.P4:- COPY OF THE PETITIONER'S LETTER TO PUBLIC INFORMATION OFFICER DT.28.11.2006

EXT.P5:- COPY OF THE PUBLIC INFORMATION OFFICERS REPLY TOP PETITIONER DT.19.12.2006.

EXT.P6:- COPY OF THE SKETCH OF ORIGINAL DRAWING DT.19.12.2006.

EXT.P7:- COPY OF THE SKETCH OF REVISED DRAWING DT. 19.12.2006.

EXT.P8:- COPY OF THE PROPOSAL SUBMITTED TO HIGH LEVEL COMMITTEE DT.19.12.2006.

EXT.P9:- COPY OF THE DECISION OF HIGH LEVEL COMMITTEE DT.19.12.2006.

EXT.P10:- COPY OF THE MINUTES OF MEETING HELD ON 3.12.04. DT.19.122.2006.

EXT.P11:- COPY OF THE NOTICE ISSUED BY 3RD RESPONDENT DT. 30.12.06.

EXT.P12:- COPY OF THE NOTICE OF AWARD ISSUED BY THE 3RD RESPONDENT DT.30.12.06.

RESPONDENTS EXHIBITS

EXT.R2(a):- COPY OF APPROVED MINUTES OF THE HIGH LEVEL COMMITTEE HELD ON 31.12.2003.

/TRUE COPY/

tss

K.PADMANABHAN NAIR, JUDGE.
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W.P.C. No. 3849 OF 2007
and
W.P.C. No. 15379 OF 2007

Dated this the 30th day of May, 2007
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JUDGMENT

Both these petitions are filed, challenging Exts.P9, P10, P11 and P12. Ext.P12 is an award notice directing the petitioner to produce documents to prove his title to receive the amount awarded. The acquisition is to widen the Pattom-Kowdiar road. The grievance of the petitioner is that in order to cause harm to the petitioner the authorities are acquiring properties from his possession alone, though there are open Government land available on the opposite side of the road. Today, the Assistant Executive Engineer, TRIDA, personally appeared and made available the plan showing the proposed alignment. After taking instructions from the officer, Sri.K.A. Jaleel, Standing counsel for TRIDA, submitted that the petitioner made several representations and at least four times the proposals made by the petitioner was considered and various alignments tried. It is submitted that because of the peculiar nature of the lie of the road, no other alignment is feasible. It is submitted that the petitioner's property is located at the convex side of a reverse curve at the southern side of the Pattom-Kowdiar road and the compound wall of the property of the petitioner projecting forward towards the existing right of way (ROW) more than that of the adjacent properties, making the existing ROW at this point very narrow. It is also submitted that

several alignment were tried to arrive at the present proposed alignment limiting the requirement of land and buildings to be acquired to the least minimum possible. Even according to the petitioner on 25.4.2007 the officer of TRIDA informed him, after acquisition the distance from the tip of the car porch to the line of acquisition is 2 metres. The Assistant Executive Engineer, representing TRIDA also submitted that there will be 2 metres property left from the tip of the car porch to the line of acquisition, after completing acquisition. So there is no merit in the contention raised by the petitioner that if proposed acquisition is made, his car porch will have to be demolished and there will be no set back on the front side of the building. Though it is likely to create difficulty to the petitioner, the action of the respondents shows that there is no malafides and they made several attempts to change the alignment and because of the natural lie of the road, this is only the possible alignment. So the larger interest of the public will have to be prevail over the private interest of the petitioner. There is no other option than to dismiss the Writ Petition.

In the result the Writ Petitions are dismissed.

K.PADMANABHAN NAIR
JUDGE.

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